

Court of Appeals, State of Michigan

ORDER

People of MI v David Duane Smith

Docket No. 272188

LC No. 05-014402 FH

Alton T. Davis
Presiding Judge

William c. Whitbeck

Bill Schuette
Judges

Pursuant to the Supreme Court's directive entered February 2, 2007, this matter is REMANDED to the "Van Buren Circuit Court, which shall, in accordance with Administrative Order 2003-03, determine whether the defendant is indigent and, if so, appoint counsel to represent the defendant at an evidentiary hearing pursuant to *People v Ginther*, 390 Mich 436 (1973), to determine whether the failure to timely seek appellate review was caused by the ineffective assistance of counsel."

The trial court is to hear and decide this matter within 56 days of the Clerk's certification of this order. Appellant must file with the Clerk of this Court copies of all orders entered on remand within 14 days after entry.

The trial court is to make findings of fact and a determination on the record concerning whether defendant is indigent and whether defendant's appellate counsel was ineffective. The trial court is to cause a transcript of any hearing on remand to be prepared and filed within 21 days after completion of the proceedings.

This Court retains jurisdiction in the cause, and the time for proceeding with the appeal in this Court begins upon issuance of an order in the trial court that finally disposes of the remand proceedings.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAR 8 - 2007
Date

Sandra Schultz Mengel
Chief Clerk